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Restricted Security Information

Amembassy,

Tokyo.

A-131, June 20, 1952

Subject: FCN Treaty. Personal discrimination.
Embassy Despatch No. 98, May 21, Enclosure No. 4.

DEPARTMENT OF STATE A/CDS/R
REVIEW Fitzmaury 3/14/82
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RELEASE [illegible]
PA/HO [illegible]

There follow additional comments ~~regarding the discussion of Article XII:~~

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(1) The Department would like to make certain observations regarding Mr. Otabe's question "whether Japan would be required to convert earnings and dividends into dollars for remittance by an American national or company which had invested only pounds sterling in Japan." (See page 1 of reference enclosure.) Article XII would not preclude the application of reasonable exchange restrictions which specify the currencies in which U.S. investors may make investments and establish the conditions for the withdrawal of capital and earnings with respect to investments made in currencies other than the U.S. dollar. Under these circumstances there would probably be either a clear understanding between the Japanese Government and individual investors or general, published rules as to the conversion into dollars of earnings and dividends derived from non-dollar investment. It should be noted that the possibility of an American investor desiring and being able to use sterling for his investment in Japan is rather remote. If an investor held American account sterling, he could convert it into dollars and make a dollar investment in Japan; if he held inconvertible sterling, he would not ordinarily be permitted under sterling area regulations to transfer it to Japan.

A problem might arise with respect to old investments made in Japan by Americans with non-dollar currencies. If no special restrictions existed with respect to such an investment at the time it was made, it would not seem appropriate for Japan to discriminate against it as compared with a dollar investment made by a U.S. resident. (This comment would also apply to any new investments made in the absence of limiting rules of the Japanese Government.) Again, the possibility of such investments having been made in inconvertible sterling seems remote. If made when sterling was convertible, it would, by definition, be the equivalent of a dollar investment.

(2) In the discussion of "financial instruments" (see second paragraph, page 7 of reference enclosure) emphasis was placed on financial instruments of a current business nature, but no mention was made of securities, which are also included within the meaning of this phrase.

Acheson

CF - Mr. Walker

OFD:MH:MDGoldstein:sg 6/19/52

DEPARTMENT OF STATE
G/T
JUN 25 1952
TREATY BRANCH
OFFICE OF THE LEGAL ADVISER

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